
SENATE BILL No. 621

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-29-6.

Synopsis: Certificate of need for health facilities and services. Establishes the certificate of need committee. Requires the committee to review specified health services and facilities and allows the committee to review other categories of health services to determine whether a certificate of need should be required. Allows the chairperson of the committee to establish subcommittees. Requires the committee to review and make determinations on certificate of need applications. Allows the state department of health to set certificate of need application fees.

Effective: July 1, 2005.

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January 24, 2005, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 621

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-29-6 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 6. Certificate of Need Committee**

5 **Sec. 1. (a) The certificate of need committee is established. The**
6 **committee consists of the following eleven (11) members:**

7 (1) The state health commissioner or the commissioner's
8 designee.

9 (2) The dean of Indiana University's School of Medicine or the
10 dean's designee.

11 (3) Two (2) individuals representing Indiana universities or
12 colleges with expertise in the area of healthcare policy,
13 appointed by the governor.

14 (4) One (1) physician licensed under IC 25-22.5, appointed by
15 the governor.

16 (5) One (1) pharmacist licensed under IC 25-26, appointed by
17 the governor.



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(6) One (1) individual who is a member of a governing board of a rural county hospital in Indiana, appointed by the governor.

(7) One (1) hospital administrator of a hospital licensed under IC 16-21, appointed by the governor.

(8) One (1) individual representing insurance interests, appointed by the governor.

(9) One (1) individual representing business interests, appointed by the governor.

(10) One (1) individual representing a business and who analyzes healthcare policy, appointed by the governor.

(b) The state department shall staff the committee. The expenses of the committee shall be paid by the state department.

(c) The state health commissioner or the commissioner's designee serves as chairperson of the committee.

(d) A member of the committee serves for a term of two (2) years. A member may not serve on the committee for more than two (2) consecutive terms.

(e) If a vacancy on the committee exists, the governor shall appoint an individual with the same qualifications as the member the individual is replacing to serve for the remainder of the unexpired term.

(f) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure.

Sec. 2. (a) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 3. (a) The certificate of need committee shall do the following:

(1) Establish criteria to be considered by the committee in

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reviewing:

- (A) an application for certificate of need; or
- (B) a category of services to determine whether a certificate of need will be required for the category.

(2) Vote on whether to accept a subcommittee's recommendation made to the committee under section 4 of this chapter.

(3) Review the following category of services or facilities to determine whether a certificate of need should be required in order to provide services in these categories:

- (A) Cardiology services.
- (B) Orthopedic services.
- (C) Oncology centers.
- (D) Ambulatory outpatient surgical centers that are required to be licensed under IC 16-21-2.
- (E) Imaging centers, including fixed and mobile:
 - (i) magnetic resonance imager services; and
 - (ii) computerized tomography scanner services.
- (F) The construction of additional acute care hospital beds.
- (G) Any health service that the majority of the members of the committee vote to review.

(4) Establish an application for a certificate of need.

(5) Review a certificate of need application and determine whether to recommend the approval or denial of an applicant's request for a certificate of need.

(b) The certificate of need committee may do the following:

- (1) Determine by a majority vote that a certificate of need should be required for a category of health services or facilities.
- (2) Review a category of health services or facilities not specified in subsection (a) to determine whether a certificate of need is necessary.

Sec. 4. (a) The chairperson may appoint a subcommittee to review a category of health services or facilities to determine whether the committee should require a certificate of need for the category.

(b) The subcommittee may consist of the following individuals appointed by the chairperson:

- (1) A member of the committee.
- (2) An individual with knowledge of the category of health services or facilities to be reviewed.

(c) The subcommittee shall report recommendations based on

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the subcommittee's review to the committee.

(d) The state department shall provide necessary staff for the subcommittee.

Sec. 5. If the certificate of need committee determines that a certificate of need is required for a category of health services or facilities, the state department shall adopt rules under IC 4-22-2 necessary to require a certificate of need for the service.

Sec. 6. (a) The certificate of need committee shall review an application for a certificate of need. The committee may require the applicant to provide the committee with additional information.

(b) In reviewing a certificate of need application, the certificate of need committee shall:

(1) consider whether the entity requesting the certificate of need provides other health care services that promote preventative care or full service care; and

(2) make a recommendation on an application for a certificate of need based on information prepared by the state department in accordance with IC 16-30 and any other relevant information as to the need for the entity or service.

(c) The certificate of need committee shall recommend and the state department shall approve a certificate of need only after finding the following:

(1) The addition of the entity in the area:

(A) is necessary;

(B) will meet an unmet need in the proposed area to be served; and

(C) is the most efficient and effective method of meeting that unmet need.

(2) The applicant for the certificate of need has illustrated or documented the applicant's experience or capacity to provide quality, effective, and efficient care that includes a description of any past or current adverse licensure action against any facility owned, operated, or managed by the applicant.

Sec. 7. (a) If a determination is made under this chapter that a certificate of need is required in order to provide a service, an entity that provides or proposes to provide that service may not be constructed or added without the review and approval of an application for a certificate of need required under this chapter.

(b) The review and approval of an application for a certificate of need required under this chapter is a condition to the licensure of the entity or offering of the covered service.

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1 **Sec. 8. A certificate of need for a project to construct or add an**
 2 **entity or offer a service that receives final approval of the state**
 3 **department under this chapter becomes void twelve (12) months**
 4 **after the determination becomes final unless:**

5 **(1) construction plans for the project are approved by the**
 6 **state department and the office of the state fire marshal;**

7 **(2) the applicant has completed construction of the project's**
 8 **foundation in conformity with the approved plans as certified**
 9 **by an independent architect licensed under IC 25-4 or an**
 10 **independent professional engineer licensed under IC 25-31;**
 11 **and**

12 **(3) construction work on the project is continuous and in**
 13 **conformity with the approved plans.**

14 **Sec. 9. (a) Unless a certificate of need expires or is voided, the**
 15 **certificate of need once issued is the personal property of the owner**
 16 **and is transferable or alienable. However, the certificate of need**
 17 **may not be used outside the county with respect to which the**
 18 **certificate of need was issued.**

19 **(b) A person that is granted a certificate of need after the review**
 20 **and approval required under this chapter is the owner of the**
 21 **certificate of need until the person transfers or alienates the**
 22 **ownership interest in the certificate.**

23 **Sec. 10. (a) The state department shall adopt rules under**
 24 **IC 4-22-2 to implement this chapter and to establish a reasonable**
 25 **fee for the filing and review of an application under this chapter.**

26 **(b) Fees imposed in connection with the review of an application**
 27 **for a certificate of need under this chapter are payable to the state**
 28 **department for use in administration of the certificate of need**
 29 **program under this chapter.**

30 **(c) The state department shall factor in the size of the entity**
 31 **proposed within an application and the projected revenues for the**
 32 **proposed entity in determining the entity's application fee.**

33 **Sec. 11. The certificate of need committee shall submit a report**
 34 **not later than July 1 of every year beginning July 1, 2007, to the**
 35 **health finance commission established by IC 2-5-23-3. The report**
 36 **must include the following:**

37 **(1) The number of applications for certificate of need by**
 38 **category under this chapter received during the year by the**
 39 **committee.**

40 **(2) The number of certificate of need applications by category**
 41 **under this chapter:**

42 **(A) granted; or**

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- 1 (B) denied;
 2 by the committee and the reason for granting or denying the
 3 certificate of need.
 4 (3) The number of times the committee met to review
 5 applications under this chapter for certificate of need.
 6 (4) The cost of administering certificate of need as well as the
 7 revenue generated by certificate of need.
 8 (5) Any other information the committee considers relevant.
 9 (6) Any information requested by the health finance
 10 commission.
 11 **Sec. 12. A decision by the:**
 12 (1) certificate of need committee that recommends the
 13 approval or denial of an application for a certificate of need
 14 under this chapter; or
 15 (2) state department to approve or deny an application for a
 16 certificate of need under this chapter;
 17 is subject to review under IC 4-21.5.
 18 **Sec. 13. (a) The state department shall monitor compliance with**
 19 **a certificate of need issued under this chapter.**
 20 **(b) The state department shall investigate allegations of**
 21 **noncompliance with:**
 22 (1) this chapter; or
 23 (2) a certificate of need issued under this chapter.
 24 **Sec. 14. If the state department determines that a person has**
 25 **violated this chapter or a rule adopted under this chapter, the state**
 26 **department may do any of the following:**
 27 (1) Revoke the certificate of need.
 28 (2) Suspend the certificate of need.
 29 (3) Impose a civil penalty in an amount not to exceed any
 30 amount that a person charges for services provided while the
 31 person is not in compliance with this chapter.
 32 (4) Report the violation or enforcement action to the
 33 committee.
 34 (5) Enjoin the person from operating the facility.

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